

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 BARBARA HEINRICH and GREGORY
4 HEINRICH,

5 Plaintiffs

6 v.

7 ETHICON, INC.; ETHICON LLC; and
8 JOHNSON & JOHNSON,

9 Defendants

Case No.: 2:20-cv-00166-APG-VCF

**Order Granting in Part Defendants’
Motion *in Limine* No. 4**

[ECF No. 132]

9 This case is one of many thousands of cases that were joined in multidistrict litigation
10 (MDL) in the United States District Court for the Southern District of West Virginia. The case
11 was transferred to this court for trial in January 2020. ECF No. 69.

12 The defendants filed a motion *in limine* seeking a court order limiting in-court
13 demonstrations using exemplars of the TVT-S mesh. The defendants acknowledge that both
14 sides will likely want to show the jury an exemplar device, but they contend that allowing the
15 jury to handle the mesh or take it back to the jury room would be misleading because it is a
16 medical device used by trained professionals and implanted into the human body. They contend
17 the jury will be confused or misled if the plaintiffs’ witnesses or the jury members are allowed to
18 overhandle, stretch, twist, or fold the mesh because that is not how the mesh is handled by
19 physicians or how it behaves inside the human body.

20 The plaintiffs agree that the exemplar device should not be sent into the jury room. ECF
21 No. 149. However, the plaintiffs contend the jury should be allowed to feel the mesh to help
22 them “understand the texture, stiffness, and rigidity of the mesh.” *Id.* The plaintiffs do not
23

1 respond to the request for an order limiting their witnesses' ability to stretch, twist, or fold the
2 device.

3 I grant the defendants' motion for an order precluding the exemplar device from being
4 sent back to the jury room for deliberations and directing all witnesses not to bend, twist, stretch,
5 or fold the exemplar device because the plaintiffs do not oppose either request. LR 7-2(d).

6 I defer ruling on the question of whether the jurors should be allowed to touch the mesh
7 at least once. That will not be an issue in the first-phase trial and may become moot if the jury
8 determines the plaintiffs' claims are untimely.

9 I THEREFORE ORDER that the defendants' motion *in limine* No. 4 (**ECF No. 132**) is
10 **GRANTED in part.**

11 DATED this 1st day of November, 2021.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE